

Applicant : Riccardo Dalla Favera  
Serial No.: 09/724,254  
Filed : November 28, 2000  
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§802.01, "independent" means there is no disclosed relationship between the subject matter claimed. The inventions of Groups I-III and species IRTA 1-5 are drawn to new Immunoglobulin Receptor Translocation Associated, IRTA, genes that code for IRTA proteins that bind to IRTA antibodies. Applicant therefore maintains that Groups I-III and species IRTA 1-5 are not independent and restriction is not proper.

Furthermore, under M.P.E.P. §803, the Examiner must examine the application on the merits if examination can be made without serious burden, even if the application would include claims to distinct or independent inventions. That is, there are two criteria for a proper requirement for restriction: (1) the invention must be independent and distinct, and (2) there must be a serious burden on the Examiner if restriction were not required.

Applicant respectfully submits that there would not be a serious burden on the Examiner if restriction were not required, because a search of the prior art relevant to the claims of Groups II and III would not require a serious burden once the prior art for Group I has been identified.

Therefore, there is no burden on the Examiner to examine Groups I-III together in the subject application. Hence, the Examiner must examine the entire application on the merits.

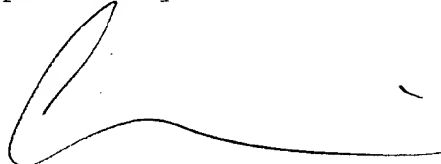
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In view of the foregoing, applicant maintains that restriction is not proper under 35 U.S.C. §121, and respectfully requests that the Examiner reconsider and withdraw the requirement for restriction.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorneys invite the Examiner to telephone them at the number provided below.

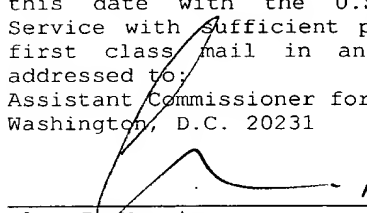
No fee is deemed necessary in connection with this Communication. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:  
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Alan J. Morrison  
Reg. No. 37,399

12/20/02  
Date